



EUROPEAN COMMISSION

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C(2014) 5841 final*

Dear Chairman,

The Commission would like to thank the House of Lords for its Opinion on the "Strategic guidelines for the EU's next Justice and Home Affairs programme: steady as she goes" which was a timely contribution to the debate on the strategic guidelines for legislative and operational planning within the area of freedom, security and justice, adopted by the European Council on 27 June 2014.

A number of the issues raised in the Opinion are also addressed by the Commission in its Communication "An open and secure Europe: making it happen" {COM (2014) 154 final} as well as in its Communication "The EU-Justice Agenda for 2020 – Strengthening Trust, Mobility and Growth within the Union" {COM (2014) 144 final}, both adopted on 11 March 2014. These Communications outline the Commission's views on the future priorities in Justice and Home Affairs and contributed to the discussion at the European Council, as well as in the European Parliament and national Parliaments.

The Commission shares the House of Lords' assessment that a substantial part of the Stockholm Programme has been achieved. The Commission has regularly reported back to the European Parliament and the Council on progress made and has been producing formal assessments of progress in the main component areas of the Programme: regular reports on implementation of the Internal Security Strategy as well as on the functioning of the Schengen Area. It also published four Annual Reports on Immigration and Asylum and a report on the implementation of the Global Approach to Migration and Mobility. For the Justice areas, a number of reports have been published, in particular, the annual reports on the application of the EU Charter of Fundamental Rights, and the two EU Citizenship Reports. Given the extent of regular reports, the view was taken by the Commission that there would be little added value in producing an additional formal document that would cover much the same ground.

The Commission agrees with the House of Lords that future work should focus on key principles, in particular on consolidation and implementation. We should also avoid a "shopping list" approach. Such an approach would neither correspond to the need for

*Lord BOSWELL
Chairman of the European Union Select Committee
House of Lords
Palace of Westminster
UK – LONDON SW1A 0PW*

strategic orientations, as stipulated by the Treaty, nor to the state of maturity of Justice and Home Affairs after the progress achieved since the conclusions of the European Council in Tampere in 1999 and the institutional modifications introduced by the Lisbon Treaty.

Furthermore, the Commission fully shares the House of Lords' view that the future policy approach should "allow responsiveness to unforeseen developments or trends".

The Commission will continue to ensure the proper implementation of EU legislation in the justice areas. As in other policy areas, further progress should be based on an analysis of the facts and the functioning of what has been achieved. Monitoring and evaluating the effectiveness of legislation and policies is part of the usual policy cycle and a task to be done on a permanent basis, in line with EU institutions' commitment to smart regulation and regulatory fitness. The Commission as the guardian of the Treaties has the role of ensuring the coherent transposition and effective enforcement of legislation, including by launching infringement procedures if necessary.

The Commission concurs with the House of Lords that any proposal for legislation in Justice and Home Affairs policies, like in any other EU policy, must be underpinned by data and evaluation for EU level action, and has outlined in its Communications the importance of these aspects. As a matter of principle, legislation must be based on evidence and a thorough assessment of the case for action and its potential impact, in full compliance with the principles of subsidiarity and proportionality and in full respect of the EU Charter of Fundamental Rights. This is essential for designing effective measures as well as for allowing a well-grounded and transparent debate and ensuring accountability.

*The Commission draws the attention of the House of Lords to the fact that it has launched a Regulatory Fitness and Performance Programme (REFIT) to review the entire stock of EU legislation, identify burdens, inconsistencies, gaps or ineffective measures and to make the necessary proposals to follow up on the findings of the review. On 18 June 2014, the Commission reported on the implementation of over 100 actions identified in October 2013 and covering all policy areas.¹ Actions under implementation in the area of Justice and Home Affairs include for instance the revision and simplification of the Visa Code, the repeal of an obsolete act concerning finance intelligence units and the evaluation of legislation on legal migration. The Commission also identified new actions for simplification and evaluation and indicated that it is screening the *acquis* in respect of police cooperation and judicial cooperation in criminal matters to identify acts which could be repealed in the context of the expiry of the transitional period set out in the treaties.² REFIT is implemented as a rolling programme with an annual implementation report and a screening for new actions. In that context, the Commission has doubts about the need for a separate exercise to evaluate the efficacy, transposition and implementation of existing Justice and Home Affairs legislation, and a separate timetable to identify overlapping and repeal out-dated legislation.*

¹ Communication and Staff Working Document on REFIT: State of Play and Outlook – COM(2014) 368 final and SWD(2014) 192 final.

² Protocol 36 on transitional periods.

As regards future priorities, the Commission takes note of the areas underlined by the House of Lords as needing further action. These converge to a large extent with the priorities outlined by the Commission in its Communications. This includes, for example, the recommendation by the House of Lords to place a particular emphasis on the need for closer cooperation between the private and public sectors in the fight against cybercrime.

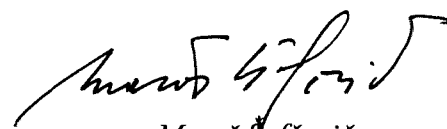
The Commission notes that for Justice policies the House of Lords points to measures which have been proposed by the Commission but have not yet been adopted, namely the proposal for a Common European Sales Law, the data protection reform and the reform of Eurojust. The importance of these initiatives has been underlined in the Commission's Communication "The EU-Justice Agenda for 2020", in particular, the key role of Eurojust for transnational crimes and the need to further strengthen its effectiveness.

As regards the possibility to produce regular scoreboards concerning Member State implementation of EU legislative actions in the Justice and Home Affairs fields, the need for such scoreboards would have to be further assessed, in the light of the other reporting instruments and evaluations prepared by the Commission as referred to above.

As recalled by the House of Lords, the Commission will carry out a mid-term review of the Multiannual Financial Framework (2014-2020). Considering, for example, the focus given in the Asylum, Migration and Integration Fund and the Internal Security Fund to supporting priorities, this review will, beyond examining the progress made towards achieving the objectives of the Funds, contribute to evaluating the overall development of Home Affairs policies.

The Commission hopes that these clarifications address the issues raised by the House of Lords and looks forward to continuing our political dialogue in the future.

Yours faithfully,



Maroš Šefčovič
Vice-President